

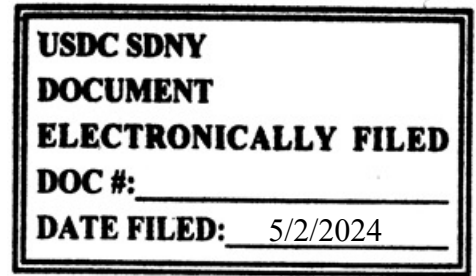
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ST. STEPHEN'S KNANAYA CATHOLIC
MISSION ORLANDO INC.,

Plaintiff,

-against-

MT. HAWLEY INSURANCE COMPANY,
Defendant.



24-CV-01413 (MMG)

ORDER

MARGARET M. GARNETT, United States District Judge:

This action was transferred to this District from the District Court for the Middle District of Florida on February 23, 2024. Although Plaintiff is represented by counsel, Levi Lawrence Wilkes, who filed the original complaint in the Circuit Court of the 9th Judicial Circuit in and for Orange County Florida, and who represented Plaintiff when the action was removed to the District Court for the Middle District of Florida, Mr. Wilkes has yet to appear in this action before this Court.

On April 15, 2024, after being informed by Mr. Wilkes that he had not appeared because he was not a member of the bar of this Court (*see* Dkt. No. 23), the Court directed Mr. Wilkes to resolve the representation of Plaintiff so that this action could move forward. Dkt. No. 24. Specifically, the Court ordered that, no later than April 29, 2024, Mr. Wilkes either (1) file a *pro hac vice* motion so that he could file a Notice of Appearance, (2) locate co-counsel who is admitted to the Southern District of New York and direct co-counsel to file a Notice of Appearance on behalf of Plaintiff, or (3) coordinate a substitution of counsel who could promptly appear. Mr. Wilkes did not comply with this Order. After being prompted regarding his non-compliance by the Court's staff, Mr. Wilkes asserted that he has "no ability to represent the Plaintiff in proceedings occurring in New York," presumably because he is not barred in this District.

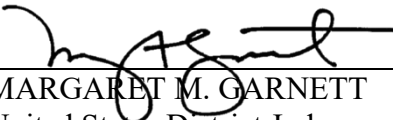
Although Mr. Wilkes is not barred in the Southern District of New York, it appears he is nonetheless current counsel for Plaintiff. The fact that Mr. Wilkes is not barred in this court does not relieve him of his ethical responsibilities to his client under the relevant rules of professional conduct. Mr. Wilkes appears to be a member of the Florida Bar, and thus, the Florida Rules of Professional Conduct apply. *Member Profile – Levi Lawrence Wilkes "Levi,"* THE FLORIDA BAR, <https://www.floridabar.org/directories/find-mbr/profile/?num=118503> (last visited May 1, 2024). The Florida Rules of Professional Conduct provide that if a lawyer does not believe he can provide competent representation to a client, such that the lawyer does not believe it is in the client's best interests to continue the representation, then the lawyer must act with reasonable diligence and promptness to facilitate the substitution of alternative counsel. *See* Florida Rule of Professional Conduct 4-1.1 & 4-1.3. Moreover, the fact that Mr. Wilkes is not barred in this Court does not alone constitute a situation in which he must decline or terminate a

representation. *See* Florida Rule of Professional Conduct 4-1.16(a). While Mr. Wilkes is permitted to withdraw pursuant to Florida Rule of Professional Conduct 4-1(b)(1), doing so without ensuring that the client has alternative counsel to move this action forward would be materially adverse on the interests of the client. *See* Florida Rule of Professional Conduct 4-1.16(b).

Accordingly, it is hereby ORDERED, on the pain of sanctions, that Mr. Wilkes either file a *pro hac vice* motion so that he may continue to represent his client in this action (*see* Instructions for Admission Pro Hac Vice, *available at* <https://nysd.uscourts.gov/attorney/prohac>), or promptly assist his client in identifying an attorney who is barred in the Southern District of New York in order to prosecute this action. If no counsel appears for Plaintiff by **May 10, 2024**, then this action may be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41.

Dated: May 2, 2024
New York, New York

SO ORDERED.



MARGARET M. GARNETT
United States District Judge